

# 28-36, 36a



## Kansas Administrative Regulations Kansas Department of Health and Environment

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Office of Public Information  
Kansas Department of Health & Environment

### *Notes*

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The *Kansas Register* notes the following changes: see next page

28-36-30	Amended	V. 17, p. 1679
28-36-10	Revoked	V. 18, p. 1099
28-36-11	Revoked	V. 18, p. 1099
28-36-12	Revoked	V. 18, p. 1099
28-36-13	Revoked	V. 18, p. 1099
28-36-14	Revoked	V. 18, p. 1099
28-36-15	Revoked	V. 18, p. 1099
28-36-16	Revoked	V. 18, p. 1099
28-36-17	Revoked	V. 18, p. 1099
28-36-18	Revoked	V. 18, p. 1099
28-36-20	Revoked	V. 18, p. 1099
28-36-21	Revoked	V. 18, p. 1099
28-36-22	Revoked	V. 18, p. 1099
28-36-23	Revoked	V. 18, p. 1099
28-36-24	Revoked	V. 18, p. 1099
28-36-25	Revoked	V. 18, p. 1099
28-36-26	Revoked	V. 18, p. 1099
28-36-27	Revoked	V. 18, p. 1099
28-36-28	Revoked	V. 18, p. 1099
28-36-29	Revoked	V. 18, p. 1099
28-36-101	New	V. 18, p. 1099
28-36-102	New	V. 18, p. 1099
28-36-103	New	V. 18, p. 1099
28-36-104	New	V. 18, p. 1099
28-36-105	New	V. 18, p. 1099
28-36-106	New	V. 18, p. 1099
28-36-107	New	V. 18, p. 1099
28-36-108	New	V. 18, p. 1099

- (1) the requirements of pertinent federal and state regulations;
- (2) the licensee's or registrant's written operating and emergency procedures; and
- (3) the licensee's or registrant's record-keeping procedures. (Authorized by and implementing K.S.A. 1992 Supp. 48-1607; effective Sept. 20, 1993.)

**Article 36.—FOOD SERVICE  
ESTABLISHMENTS, FOOD VENDING  
MACHINE COMPANIES AND LODGING  
ESTABLISHMENTS**

**MOBILE UNITS**

28-36-1. **Fees; mobile units.** The license fee for mobile units engaged solely in the sales of prepackaged frozen desserts shall be five (\$5) dollars for each such unit. (Authorized by K.S.A. 1978 Supp. 36-503; effective, E-77-45, Sept. 30, 1976; effective Feb. 15, 1977; amended, E-79-16, July 1, 1978; amended May 1, 1979.)

28-36-2 to 28-36-9. **Reserved.**

**FOOD VENDING MACHINES AND FOOD  
VENDING MACHINE COMPANIES**

28-36-10. **Definitions.** The following definitions shall apply in the interpretation and the enforcement of regulations pertaining to food vending machines and controlled location vending machines.

1. "Adulterated" shall be defined according to K.S.A. 65-664 of the Kansas food, drug and cosmetic act.

2. "Closed" means fitted together snugly leaving no openings large enough to permit the entrance of vermin ( $\frac{1}{32}$ " or less).

3. "Commissary" means catering establishments, restaurant, or any other place in which food, containers or supplies are kept, handled, prepared, packaged, or stored, and from which vending machines are serviced. *Provided*, That this term shall not apply to an area or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

4. "Controlled location vending machine" means a vending machine which: (a) dispenses only non-potentially hazardous food; (b) is of such design that it can be filled and maintained in a sanitary manner by untrained persons at the location; and, (c) is intended for and used at loca-

tions in which protection against environmental contamination is maintained at a satisfactory level.

5. "Corrosion-resistant material" means a material which maintains its original surface characteristics under prolonged influence of the food, cleaning compounds and sanitizing solutions which may contact it.

6. "Easily cleanable" means readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

7. "Employee" means any operator or any person employed by him who handles any food to be dispensed through vending machines, or who comes into contact with food-contact surfaces of containers, equipment, utensils, or packaging materials, used in connection with vending machine operations, or who otherwise services or maintains one or more such machines.

8. "Food" means any raw, cooked, or processed edible substance, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption. (K.S.A. 36-501(f)).

9. "Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes in direct contact, and those surfaces with which food may come in contact and drain back onto surfaces normally in contact with food.

10. "Food vending machine" means any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation but shall not include any vending machine dispensing only bottled or canned soft drinks, or prepackaged and nonpotentially hazardous food, chewing gum, nuts or candies. (K.S.A. 36-501 (g)).

11. "Food vending machine company" means any person who is in the business of operating and servicing food vending machines.

12. "Food vending machine dealer" means any manufacturer, remanufacturer or distributor of food vending machines who sells food vending machines to food vending machine companies.

13. "Regulatory authority" means the secretary of health and environment or his duly authorized representative.

14. "Secretary" means the secretary of health and environment.

15. "Machine location" means the room, enclosure, space, or area where one or more vending machines are installed and operated.

16. "Misbranded" shall be defined according to K.S.A. 65-664 of the Kansas food, drug and cosmetic act.

17. "Operator" means any person, who by contract, agreement, or ownership, takes responsibility for furnishing, installing, servicing, operating, or maintaining one or more food vending machines.

18. "Person" means an individual, partnership, corporation, or other association or persons. (K.S.A. 36-501 (j)).

19. "Potentially hazardous food" means any perishable food which consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, or other ingredients capable of supporting rapid and progressive growth or infections or toxigenic microorganisms.

20. "Safe temperature" as applied to potentially hazardous food, means temperatures of 45 degrees F. or below, or 140 degrees F. or above.

21. "Sanitize" means effective bactericidal treatment to clean surfaces of equipment and utensils by a process which has been approved by the regulatory authority as being effective in destroying microorganisms, including pathogens.

22. "Single service articles" means cups, containers, lids, or closures, plates, knives, forks, spoons, stirrers, paddles, straws, place mats, napkins, doilies, wrapping materials; and all similar articles which are constructed wholly or in part from paper, paperboard, milled pulp, foil, wood, plastic, synthetic, or other materials, and which are intended for one usage only, then to be discarded.

23. "Wholesome" means in sound condition, clean, free from adulteration and otherwise suitable for use as human food. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

**28-36-11. Sale, examination and condemnation of adulterated or misbranded food.** A. Sale of adulterated and misbranded food prohibited.

No person within the state of Kansas shall sell, offer, or expose for sale, through vending machines, or to have in possession with intent to sell therefrom any food which is adulterated or misbranded.

B. Examination and condemnation of adulterated and misbranded food.

Samples of food may be taken and examined by the regulatory authority as often as may be necessary to determine freedom from adulteration or misbranding. The regulatory authority may, on written notice to the operator, impound and forbid the sale of any food which is adulterated or misbranded. After the operator has been given an opportunity for a hearing, the regulatory authority may cause to be removed or destroyed any food which is adulterated or misbranded; Provided, That in the case of misbranding which can be corrected by proper labeling, such food may be released to the operator for correct labeling under the supervision of the regulatory authority. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

**28-36-12. Inspection of vending machines and commissaries.**

A. Inspection frequency. The regulatory authority shall inspect all commissaries and food vending machines at which potentially hazardous or bulk food vending machines are operated in accordance with K.S.A. 36-505. Any other vending machines and controlled location vending machines shall be inspected when the regulatory authority has been informed or has reason to believe that insanitary conditions exist.

B. Access for inspections. The regulatory authority, after proper identification shall be permitted to enter at any reasonable time, upon any private or public property within the State of Kansas, where vending machines or commissaries are operated, or from which such machines are otherwise serviced, for the purpose of determining compliance with the provisions of these regulations. The operator shall make provision for the regulatory authority to have access, either in company with an employee or otherwise, to the interior of all vending machines operated by him.

C. Notification of inspection findings. Whenever the regulatory authority discovers a violation of any provision of these regulations, he shall notify the operator concerned either by the inspection report form or by other written notice. Such form or notice shall (1) describe the condition found and state which section of these regulations is violated by such conditions; (2) provide a specific and reasonable period of time for the correction of the condition; and (3) state that an opportunity for a hearing on inspection findings will be

provided, if a written request for such hearing is filed with the secretary within 20 days of receipt of the notice. The regulatory authority may also advise the operator in writing that unless the violations are corrected within the specified period of time, any permit issued under the provisions of these regulations may be suspended or revoked, in accordance with provisions of K.S.A. 36-515. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

**28-36-13. Sanitation requirements for food vending machine operations.** A. Food, consumer containers, equipment maintenance and operations. Food intended for sale through food vending machines and condiments available at food vending machine locations shall be obtained from sources complying with the regulations of the Kansas department of health and environment, and with other applicable state laws and regulations. Such food shall be wholesome, free from spoilage, and shall be processed, prepared, handled and stored in such a manner as to be protected against contamination and adulteration. All food-contact surfaces of containers and equipment shall be protected from contamination. If condiments are provided for service in conjunction with food dispensed by a food vending machine, they shall be packaged in individual portions in single-service containers or shall be dispensed from approved sanitary dispensers which are washed, sanitized and filled at the commissary or machine location, if approved facilities are available. Relish bowls and similar non-self-closing condiment containers shall not be used. Potentially hazardous food shall be held at safe temperatures except during necessary periods of preparation.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. All food offered for sale through vending machines shall be manufactured, processed, and prepared in commissaries or establishments which comply with all applicable state laws and regulations.

2. All food offered for sale through vending machines shall be wholesome.

3. All food shall be stored or packaged in clean protective containers and shall be handled, transported and vended in a sanitary manner. Condiments provided for service in conjunction with

food dispensed by a vending machine, shall be packaged in individual portions in single-service containers or shall be dispensed from approved sanitary dispensers which are washed, sanitized and filled at the commissary or machine location, if approved facilities are available.

Fresh fruits which may be eaten raw without peeling may be dispensed unpackaged but must be thoroughly washed in potable water before being placed in the vending machine or be pre-washed at the packing plant and subsequently protected from contamination. Storage of cartoned, bottled, canned or packaged food by placing or submerging it in liquid is prohibited. Submerging such containers of food in ice is prohibited.

4. Potentially hazardous food offered for sale through food vending machines shall be dispensed to the consumer in the individual original container or wrapper into which it was placed at the commissary or at the manufacturer's or processor's plant, or such products shall be dispensed into single-service containers from bulk containers which were filled at the commissary or at the manufacturer's or processor's plant, or at the machine location, if approved facilities are available.

5. In those vending machines which dispense potentially hazardous food from bulk, the bulk supplies of such food shall be transferred only to bulk vending machines containers and appurtenances which have been cleaned and sanitized.

6. Potentially hazardous food within the vending machine shall be maintained at a temperature of 45 degrees F. or below, or 140 degrees F. or above, whichever is applicable: Provided, That exceptions may be made for (a) the actual time required to load or otherwise service the machine and for a maximum recovery period of 30 minutes, following completion of loading or servicing operation; and (b) in the case of hot potentially hazardous food vending machines, a maximum of 120 minutes to heat food through the 45 degrees F. to 140 degrees F. temperature zone. In hot potentially hazardous food vending machines which are not equipped with refrigerated storage, there shall be no time delay to preclude heat from being applied to potentially hazardous food immediately after it is loaded or placed in the machine. Potentially hazardous food once heated to a temperature of 140 degrees F. or above, shall be maintained at such temperature until served or discarded.

Food vending machines dispensing potentially hazardous food shall be provided with adequate refrigerating or heating units, or both, and thermostatic controls which insure the maintenance of applicable temperatures at all times. Such vending machines shall also have controls which prevent the machine from vending potentially hazardous food until serviced by the operator in the event of power failure or other condition which results in noncompliance with time-temperature requirements in the food storage compartment.

Potentially hazardous food which has failed to conform to the time-temperature requirements of this subsection shall be removed from the vending machine, and be denatured or otherwise rendered unusable for human consumption.

Vending machines dispensing potentially hazardous food shall be provided with one or more thermometers which, to an accuracy of  $\pm 2$  degrees F., indicates the air temperature of the warmest part of the refrigerated food storage compartment, or the coldest part of the heated food storage compartment, whichever is applicable.

7. Milk and fluid milk products offered for sale through vending machines shall be pasteurized and shall be dispensed only in individual, original containers or from bulk containers into which such product was placed at the milk plant: Provided, That such products may be reconstituted automatically within the vending machine when (a) the powder or concentrate is made from a pasteurized milk or milk product and is from an approved source; (b) the mixing chambers or bowls and any food-contact surface downstream from such mixing units are maintained at safe temperatures; and (c) the product is reconstituted for immediate dispensing in individual unit servings.

8. All multiuse containers or parts of vending machines which come into direct contact with potentially hazardous food shall be maintained at all times at a temperature of 45 degrees F. or below, or 140 degrees F. or above, whichever is applicable, and shall be kept in a cleaned and sanitized condition. After sanitization, such parts shall be protected from contamination.

9. All parts of vending machines which come into contact with non-potentially hazardous food shall be cleaned and sanitized by: (a) effective in-place methods in accordance with subsection (D) (3) of this regulation; or (b) manual cleaning with a suitable detergent and immersion in water

at 170 degrees F. for not less than 30 seconds or in an approved chemical sanitizing solution for not less than one minute or by in-place flushing with water at 180 degrees F. or above for not less than 30 seconds.

Food contact parts which are removed from the machine location for sanitary treatment shall be cleaned and sanitized at facilities approved by the regulatory authority and by methods prescribed by the regulatory authority for the cleaning and sanitizing of food preparation utensils used in food service establishments.

10. All single-service articles shall be purchased in sanitary cartons or packages which protect the articles from contamination, shall be stored in a clean, dry place in the original carton or wrapper until used, and shall be handled in a sanitary manner. Straws and utensils shall be individually wrapped or served from bulk dispensers which preclude unnecessary handling and other contamination. Single-service articles stored within the vending machine, other than in dispensing magazines, shall be kept in their original cartons or wrappers and shall be protected from splash, seepage and other contaminants.

B. Machine location. The machine location shall be such as to minimize the potential for contamination of the food, shall be well lighted and ventilated, easily cleanable, and shall be kept clean. Conveniently located handwashing facilities shall be available for use by employees servicing or loading bulk food machines.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. Each food vending machine shall be located in a room, area, or space which can be maintained in a clean condition and which is protected from overhead leakage or condensation from water, waste or sewer piping. The immediate area in which the machine is located shall be well lighted and well ventilated. Each vending machine shall be so located that the space around and under the machine can be easily cleaned and maintained, and so that insect and rodent harborage is not created.

2. The floor area where vending machines are located shall be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. This space and the immediate surroundings of each vending machine shall be maintained in a clean condition.

3. Adequate handwashing facilities, including hot and cold or tempered running water, soap and individual towels, shall be convenient to the machine location and shall be available for use by employees servicing or loading unpackaged food machines.

C. Exterior construction and maintenance. The exterior construction of vending machines shall be such as to facilitate cleaning and to exclude the entrance of insects and rodents, and the exterior of the machines shall be kept clean. Service connections to machines vending potentially hazardous food or food in bulk shall be such as to protect against unintentional or accidental interruption of service to the machine.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. The vending machine shall be of sturdy construction and the exterior shall be so designed, fabricated, finished, and maintained so as to facilitate its being kept clean, and to exclude the entrance of insects and rodents. The exterior of the machine shall be kept clean.

2. Door and panel access openings to the food and container storage spaces of the machine shall be tight-fitting, and if necessary, gasketed, so as to prevent the entrance of dust, moisture, insects and rodents.

3. All ventilation louvers or openings into vending machines shall be effectively screened. Screening material for openings into food and container storage spaces of the machine shall be not less than 16 mesh to the inch or equivalent. Screening material for openings into condenser units which are separated from food and container storage spaces shall be not less than 8 mesh to the square inch or equivalent.

4. In all vending machines in which the condenser unit is an integral part of the machine, such unit when located below the food and container storage space shall be separated from such space by a dust-proof barrier, and when located above, shall be sealed from such space.

5. In order to prevent seepage underneath the machine and to promote cleaning, free-standing vending machines shall have one or more of the following elevation or moveability features: (a) be light enough to be manually moved with ease by one person; or, (b) be elevated on legs or extended sidewalls to afford, with or without kickplates, an unobstructed vertical space of at least 6 inches under the machine; or, (c) be mounted on rollers

or casters which permit easy movement. Where used, kickplates shall be easily removable or operable. Counter-type machines shall be: (a) mounted on 4-inch legs or the equivalent; or, (b) easily moved for cleaning with service connections in place.

6. All service connections through an exterior wall of the machine, including water, gas, electrical, wastewater and refrigeration connections, shall be grommets or closed to prevent the entrance of insects and rodents. All service connections to machines vending potentially hazardous food or food in bulk shall be such as to discourage their unauthorized or unintentional disconnection.

D. Interior construction and maintenance. All interior surfaces and component parts of the vending machine shall be so designed and constructed as to permit easy cleaning, and shall be kept clean. Such surfaces shall be protected against contamination.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. The non-food-contact surfaces of the interior of vending machines shall be so designed and constructed as to permit easy cleaning, and to facilitate maintenance operations and shall be kept clean. Inaccessible surfaces or areas shall be minimized.

2. All food-contact surfaces of vending machines shall be smooth, in good repair, and free of breaks, corrosion, open seams, cracks, and chipped finishes. The design of such surfaces shall be such as to preclude routine contact between food and V-type threaded surfaces. All joints and welds in food-contact surfaces shall be smooth; and all internal angles and corners of such surfaces shall be rounded to facilitate cleaning.

3. All food-contact surfaces of vending machines, including containers, pipes, valves, and fittings, shall be constructed of nontoxic, corrosion-resistant, and relatively nonabsorbent materials, and shall be kept clean. All food-contact surfaces, unless designed for in-place cleaning, shall be accessible for manual cleaning and inspection: (a) without being disassembled; (b) by disassembly without the use of tools; or (c) by easy disassembly with the use of only simple tools such as a screwdriver or an open-end wrench. In machines of such design that food-contact surfaces are not readily removable, in-place cleaning of such surfaces may be permitted; Provided, That

(a) they are so arranged that cleaning and sanitizing solutions can be circulated throughout the fixed system; (b) such solutions will contact all food-contact surfaces; (c) the system is self-draining or otherwise completely evacuated; and (d) the procedures utilized result in thorough cleaning of the equipment.

4. The openings into all nonpressurized containers used for the storage of vendable food, including water and ice shall be provided with covers which prevent contamination from reaching the interior of the containers. Such covers shall be designed to provide a flange which overlaps the opening, and shall be sloped to provide drainage from the cover wherever the collection of condensation, moisture, or splash is possible. Concave covers or cover areas are prohibited. Any port opening through the cover shall be flanged upward at least three-sixteenths inch, and shall be provided with an overlapping cover flanged downward. Condensation, drip, or dust deflecting aprons shall be provided on all piping, thermometers, equipment, rotary shafts, and other functional parts extending into the food container, unless a water-tight joint is provided. Such aprons shall be considered as satisfactory covers for those openings which are in continuous use. Gaskets, if used, shall be of a material which is nontoxic, relatively stable, and relatively nonabsorbent, and shall have a smooth surface. All gasket retaining grooves shall be easily cleanable.

5. The delivery tube or chute and orifice of all bulk food and bulk beverage vending machines shall be protected from normal manual contact, dust, insects, rodents, and other contamination. The design shall be such as to divert condensation or other moisture from the normal filling position of the container receiving the food or beverage. The vending stage of such machines shall be provided with a tight-fitting, self-closing door or cover which is kept shut, except when food is being removed. Provided, that the cup filling platform or area of controlled location vending machines shall not require a door or cover if there is no opening into the cabinet interior at that point other than for dispensing tube(s) or trapped waste tubing and protection from contamination is maintained at a satisfactory level.

6. The dispensing compartments of prepackaged candy, cookie, cracker, pastry and snack vending machines shall be equipped with self-closing doors, panels or covers except at vending

locations where protection from contamination is maintained at a satisfactory level.

7. In refrigerated vending machines, surfaces on which condensate may collect, including syrup tank and waterbath compartments, shall be self-draining or equipped with a drain opening which permits complete draining. Drains shall be easily cleanable and kept clean. In vending machines designed to store cartoned liquid beverages, diversion shields and pans for product carton leakage shall be provided.

8. Opening devices which come into contact with the food or the food-contact surfaces of the containers shall be constructed of smooth, non-toxic, corrosion-resistant, and relatively nonabsorbent materials. Unless the opening device is of a single-service type, it shall be readily removable for cleaning, and shall be kept clean. Parts of multiuse opening devices which come into contact with the food or food-contact surfaces of containers shall be reasonably protected from manual contact, dust, insects, rodents, and other contamination; and such parts shall be readily removable for cleaning.

E. Water supply. Water used in vending machines shall be from an approved source, and shall be of a safe and sanitary quality. Vending machines shall be so installed and operated as to prevent the production of toxic substances in the water.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. Water used as a food ingredient shall be piped to the vending machine under pressure or brought to the vending machine in portable containers or urns which have been filled in a sanitary manner directly from an approved water supply outlet at the commissary or other approved location. Ingredient water shall not be transferred from one container to another at the machine location. Containers for the storage of ingredient water or ice, which are not a part of this closed water system, shall be designed and maintained as food-contact surfaces. Portable water containers or urns shall be cleaned and sanitized at the commissary or other approved facility after each use. Such portable containers shall be continuously protected against contamination from the time of sanitizing until placed in the vending machine. External water fill ports or drawers of vending machines shall be designed so that covers and drawers are secured to the machine. Where unauthor-



ized persons may have access to these machines, external fill port covers or drawers shall be equipped with locks or similar safeguards. All plumbing connections and fittings shall be installed in accordance with state and local plumbing regulations.

2. If used, water filters or other water conditioning devices shall be of a type which may be disassembled for periodic cleaning or replacement of the active element. Replacement elements shall be handled in a sanitary manner.

3. All post-mix vending machines which dispense carbonated beverages, and which are connected to a water supply system, shall be equipped with two (or a double) check valves; or an air gap; or a device to vent carbon dioxide to the atmosphere; or other approved device, which will provide positive protection against the entrance of carbon dioxide or carbonated water into the water supply system.

4. Where check valves are used for the protection of the water supply system, a screen of not less than 100 mesh to the square inch shall be installed in the water line immediately upstream from the check valves.

5. In machines designed for direct connection to the external water supply without an air gap there shall be no copper or other potentially toxic water tubing between the inlet water connection and the water dispensing outlets (nozzles). To preclude accidental backflow of carbon dioxide or carbonated water into the external water supply, two single checkvalves or a double checkvalve shall be installed in the machine water system upstream from the carbonator. Additionally, an atmospherically vented valve or one or more backflow-resistant flow control valves or other devices or design features which further reduce the possibility of backflow from the machine are recommended.

F. Waste disposal. All wastes shall be properly disposed of, and, pending disposition, shall be kept in suitable containers so as to prevent creating a nuisance.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. All refuse and other waste material shall be removed from the machine location as frequently as may be necessary to prevent nuisance and unsightliness, and shall be disposed of in an approved manner.

2. Self-closing, leak-proof and easily cleanable refuse containers shall be provided in the vicinity of vending machines to receive used cups, cartons, wrappers, straws, closures, and other single-service items. After being emptied, refuse containers shall be thoroughly cleaned. Such containers shall not be located within the vending machine: *Provided*, That crown closures may be stored within the machine. Suitable racks or cases shall be provided for returnable containers or bottles.

3. Containers shall be provided within all machines dispensing liquid food in bulk for the collection of drip, spillage, overflow or other internal wastes. An automatic shutoff device shall be provided which will place the vending machine out of operation before such container overflows. Controlled location vending machines which generate no internal liquid wastes may be equipped with easily removable adequate drip pans at the dispensing platform in lieu of internal waste containers and cut-off controls. Containers or surfaces on which wastes may accumulate shall be: readily removable for cleaning, easily cleanable, and, corrosion-resistant. If liquid wastes from drip, spillage or overflow which originate within the machines are discharged into a sewerage system, the connection to the sewer shall be through an air gap.

G. Delivery of food, equipment and supplies to machine location. Food, food-contact surfaces of containers, equipment and supplies, shall be protected from contamination while in transit to machine location. Potentially hazardous food, while in transit and in storage on location, shall be maintained at safe temperatures.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

1. Food, while in transit to vending machine locations, shall be protected from dirt, dust, insects, rodents, and other contamination. Proper protection shall be provided for single-service containers, and for the food-contact surfaces of equipment, containers, and devices in transit to machine locations.

2. Potentially hazardous food, prior to and after being loaded in the delivery vehicle, shall be maintained at a temperature of 45 degrees F. or below, or 140 degrees F. or above, whichever is applicable. Such food shall also comply with the applicable temperature requirements while in transit to machine locations.

3. If potentially hazardous food is stored at machine locations, the applicable safe temperature shall be maintained during storage.

H. Personnel—cleanliness. Employees shall maintain a high degree of personal cleanliness and shall conform to hygienic practices while engaged in handling foods, or food-contact surfaces of utensils or equipment.

Satisfactory compliance.—This subsection shall be deemed to have been satisfied when the following requirements are met:

Employees shall wash their hands immediately prior to engaging in any vending machine servicing operation which may bring them into contact with the food or with food-contact surfaces of utensils, containers or equipment. While engaged in food preparation, food handling or servicing operations; employees shall wear clean outer garments, conform to hygienic practices and not use tobacco in any form. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

28-36-14. **Disease control.** No person affected with any disease in a communicable form, or a carrier of such disease, or afflicted with boils, infected wounds, sores, diarrhea, or an acute respiratory infection shall work in a commissary or food vending operation in a capacity in which there is a likelihood of contaminating food or food-contact surfaces with pathogenic organisms or transmitting disease to other individuals. If the manager or person in charge has reason to suspect that any employee has contracted a disease in a communicable form or has become a carrier, he shall notify the regulatory authority immediately. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

28-36-15. **Procedure when infection is suspected.** When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any employee, the regulatory authority shall secure a morbidity history of the suspected employee or make such other investigation as may be indicated and take appropriate action. The regulatory authority may require any or all of the following:

1. The immediate exclusion of the employee from commissaries and food vending machine operations.

2. The immediate closure of commissaries and operations concerned until, in the opinion of the

regulatory authority, no further danger of disease outbreak exists.

3. Restriction of the employee's services to work where there would be no danger of transmitting disease.

4. Adequate medical examination of the employee and of his associates, with such laboratory examinations as may be indicated. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

28-36-16. **Commissaries outside jurisdiction of the regulatory authority.** Food from commissaries outside the jurisdiction of the Kansas department of health and environment may be sold within the state of Kansas if such commissaries conform to the provisions of the food service establishment sanitation regulations of the state of Kansas, or to substantially equivalent provisions. To determine the extent of compliance with such provisions, the regulatory authority may accept reports from the responsible authorities in the jurisdictions where the commissary or commissaries are located. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

28-36-17. **Machine approval.** Vending machines subject to the provisions of these regulations shall meet all applicable design and construction requirements and be kept in compliance through effective maintenance and repair.

To determine compliance with the basic design and construction requirements of these regulations, the regulatory authority may accept evaluation and compliance reports from nationally recognized testing organizations experienced in vending machine evaluation consistent with the requirements of these regulations. (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

28-36-18. **Enforcement interpretation.** These regulations shall be enforced by the regulatory authority wherever applicable in accordance with the interpretations thereof contained in "The Vending of Food and Beverages—A Sanitation Ordinance and Code—Recommendations of the Public Health Service." (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977.)

28-36-19. **Reserved.**

**FOOD SERVICE ESTABLISHMENTS**

28-36-20. **Definitions.** (a) "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

(b) "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

(c) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(d) "Employee" means the permit holder, individuals having supervisory or management duties and any other person working in a food service establishment.

(e) "Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a food service establishment.

(f) "Food contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(g) "Food processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.

(h) "Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

(i) "Kitchenware" means all multi-use utensils other than tableware.

(j) "Law" includes applicable local, state statutes, regulations, and ordinances.

(k) "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

(l) "Packaged" means bottled, canned, cartoned, or securely wrapped.

(m) "Person in charge" means the individual present in a food service establishment who is the

apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

(n) "Potentially hazardous food" means any food that consists in whole, or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. The term does not include foods which have a pH level of four point six (4.6) or below or a water activity (aW) value of point eighty-five (.85) or less.

(o) "Pushcart" means a nonselfpropelled vehicle limited to serving nonpotentially hazardous foods or commissary wrapped food maintained at proper temperatures.

(p) "Reconstituted" means dehydrated food products recombined with water or other liquids.

(q) "Regulatory authority" means the secretary of health and environment or his or her duly authorized agent.

(r) "Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of any food. If the materials used are food additives, or color additives as defined in section 201(s) or (t) of the federal food, drug and cosmetic act (ref. 9), they are "safe" only if they are used in conformity with regulations established pursuant to section 409 or section 706 of the act. Other materials are "safe" only if as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal food, drug and cosmetic act and are used in conformity with all applicable regulations of the food and drug administration.

(s) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(t) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

(u) "Single service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks and similar articles intended for one time, one person use.

(v) "Tableware" means multi-use eating and drinking utensils.

(w) "Temporary food service establishments" means a food service establishment that operates at a fixed location for a period of time of not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

(x) "Utensil" means any implement used in the storage, preparation, transportation, or service of food. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

**28-36-21. Food care.** (a) Food supplies.

(1) General requirements. Food shall be in sound condition, free from spoilage, filth, or other contaminations and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of food in hermetically sealed containers that was not prepared in a food processing establishment shall be prohibited.

(2) Special requirements.

(A) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the grade A quality standards as established by law. Dry milk and dry milk products shall be made from pasteurized milk and milk products.

(B) Fresh and frozen shucked shellfish, including but not limited to oysters, clams, or mussels, shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock, including but not limited to oysters, clams, or mussels, shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quality of shell stock, and an interstate certification number issued by the state or foreign shellfish control agency.

(C) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid, frozen, dry eggs, or pasteurized dry egg products shall be used. Eggs that are hardboiled, peeled and commercially prepared and packaged by approved methods may be used.

(b) Food protection.

(1) General requirements. Food being stored, prepared, displayed, served, or transported, shall

be protected from potential contamination, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage, and overhead leakage or overhead drippage from condensation. The temperature of potentially hazardous foods shall be 45°F or below, or 140°F or above at all times, except as otherwise provided in K.A.R. 28-36-20 through 28-36-29.

(2) Emergency occurrences. In the event of a fire, flood, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall immediately contact the regulatory authority. Upon receiving notice of this occurrence, the regulatory authority shall take whatever action deemed necessary to protect the public health in accordance with these regulations or the Kansas food, drug and cosmetic act.

(c) Food storage.

(1) General requirements.

(A) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent; however, linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage however, quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

(B) Containers of food shall be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area. Metal pressurized beverage containers are not required to be elevated. Containers may be stored on dollies, racks, or pallets, provided such equipment is easily movable.

(C) Food and containers of food shall not be stored under exposed or unprotected sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law. The storage of food in toilet rooms or vestibules is prohibited.

(D) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food requiring washing or cooking.

(E) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.

(F) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar or flour not stored in the product container or package in which it was obtained, shall be stored in a container identifying the food by common name.

(2) Refrigerated storage.

(A) Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at required temperatures during storage. Each mechanically refrigerated facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus 3°F, located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus 3°F, may be used in lieu of indicating thermometers.

(B) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F or below. Potentially hazardous foods of large volume or foods prepared in large quantities shall be rapidly cooled, utilizing such methods as shallow pans, agitation, quick chilling or water circulation external to the food container so that the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F or below unless maintained in accordance with K.A.R. 28-36-21(c)(3)(A).

(C) Frozen food shall be kept frozen and should be stored at a temperature of 0°F or below.

(D) Ice intended for human consumption shall not be used for cooling stored food, food containers or food utensils, but may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head. Ice used for cooling stored food and food containers shall not be used for human consumption.

(3) Hot storage.

(A) Conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food facility storing potentially hazardous food shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus 3°F, located to measure the air temperature in the coolest part of the facility and to

be easily readable. Recording thermometers, accurate to plus or minus 3°F, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment, including but not limited to bainmaries, steam tables, steam kettles, heat lamps, cal-rod units or insulated food transport carriers, a product thermometer shall be available and used to check internal food temperature.

(B) The internal temperature of potentially hazardous food requiring hot storage shall be 140°F or above except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F or above unless maintained in accordance with K.A.R. 28-36-21 (c)(2)(B).

(d) Food preparation.

(1) General requirements. Food shall be prepared with the least possible manual contact. Suitable utensils and surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination shall be used.

(2) Raw fruits and raw vegetables. Raw fruits and raw vegetables shall be thoroughly washed with potable water before being cooked or served.

(3) Cooking potentially hazardous foods.

(A) General requirements. Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F unless otherwise ordered by the immediate consumer.

(B) Specific requirements.

(i) Poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least 165°F with no interruption of the cooking process.

(ii) Pork and any food containing pork shall be cooked to heat all parts of the food to at least 150°F.

(iii) Ground beef shall be cooked to heat all parts of the food to a temperature of at least 155°F.

(4) Reheating. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165°F or higher throughout before being served, or before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and similar hot food holding facilities shall not be used for the rapid reheating of potentially hazardous foods.

(5) Product thermometers. Metal stem-type numerically scaled indicating thermometers, accurate to plus or minus 3°F shall be provided and

used to assure the attainment and maintenance of proper internal cooking, holding, or refrigeration temperatures of all potentially hazardous foods.

(6) Dry milk and dry milk products. Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

(7) Liquid, frozen, dry eggs and egg products. Liquid, frozen, dry egg and egg products shall not be served without cooking or baking.

(8) Nondairy products. Nondairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one gallon in capacity and cooled to 45°F or below as quickly as possible, but at no time exceeding four hours.

(9) Thawing potentially hazardous foods. Potentially hazardous foods shall be thawed:

(A) in refrigerated units at a temperature not to exceed 45°F;

(B) under potable running water of a temperature not to exceed 70°F, with sufficient water velocity to agitate and float off loose food particles into the overflow;

(C) in a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process, or when the entire uninterrupted cooking process takes place in the microwave oven; or

(D) as part of the conventional cooking process.

(e) Food display and service.

(1) Potentially hazardous foods. Potentially hazardous food shall be kept at an internal temperature of 45°F or below or at an internal temperature of 140°F or above during display and service.

(2) Milk and cream dispensing.

(A) Milk and milk products for drinking shall be provided to the consumer in an unopened, commercially filled package not exceeding one pint in capacity or drawn from a commercially filled container stored in a mechanically refrigerated bulk milk dispenser or as otherwise approved by the regulatory authority. Where a bulk dispenser for milk and milk products is not available and portions of less than one-half pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container of one-half gallon capacity or less.

(B) Cream, or half and half shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(3) Nondairy product dispensing. Nondairy creaming or whitening agents shall be provided in an individual service container, protected pour-type pitcher, or drawn from a refrigerated dispenser designed for such service.

(4) Condiment dispensing.

(A) Condiments, seasonings and dressings for self-service use shall be provided in individual packages, from dispensers, or from containers protected in accordance with subsection (e)(8) of this regulation.

(B) Condiments provided for table or counter service shall be individually portioned, except that catsup and other sauces may be served in the original container or a pour-type dispenser. Sugar for consumer use shall be provided in individual packages or in pour-type dispensers.

(5) Ice dispensing. Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice self-dispensing utensils, or through automatic service ice dispensing equipment. Ice dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be stored in a way that protects them from contamination. Ice storage bins shall be drained through an air gap.

(6) Dispensing utensils.

(A) To avoid unnecessary manual contact with food, suitable dispensing utensils shall be used by employees or provided to consumers who serve themselves. Between uses during service, dispensing utensils shall either be:

(i) stored in the food with the dispensing utensil handle extended out of the food;

(ii) stored clean and dry;

(iii) stored in running water; or

(iv) stored either in a running water dipper well, or clean and dry in the case of dispensing utensils and malt collars used in preparing frozen desserts.

(7) Reservice. Once served to a consumer, portions of leftover food shall not be served again. However, packaged food, other than potentially hazardous food, that is still packaged and is still in sound condition may be reserved.

(8) Display equipment. Food on display shall be protected from consumer contamination by the use of packaging or by the use of easily clean-

able counters, serving line or salad bar protector devices, display cases, or by other effective means. Enough hot or cold food facilities shall be available to maintain the required temperature of potentially hazardous food on display.

(9) **Reuse of tableware.** Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement.

(f) **Food transportation.** General requirements. During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination. Foods in original individual packages do not need to be overwrapped or covered if the original package has not been torn or broken. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of K.A.R. 28-36-20 through 28-36-29 relating to food protection and food storage. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended Aug. 23, 1993.)

28-36-22. **Personnel.** (a) *Employee health.* No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease, or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons.

(b) *Personal cleanliness.* Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

(c) *Clothing.* (1) The outer clothing of all employees shall be clean.

(2) Employees shall use effective hair restraints to prevent the contamination of food or food contact surfaces.

(d) *Employee practices.* (1) Employees shall consume food only in designated dining areas. An employee dining area shall not be so designated if consuming food there may result in contamination

of other food, equipment, utensils, or other items needing protection.

(2) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in areas used for equipment or utensil washing or for food preparation. Employees shall use tobacco only in designated areas. An employee tobacco use area shall not be designated for that purpose if the use of tobacco there may result in contamination of food, equipment, utensils, or other items needing protection.

(3) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(4) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the food service establishment. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

28-36-23. **Equipment and utensils.** (a) *Materials.* (1) *General requirements.* Multi-use equipment, utensils, and finishing materials shall be constructed and repaired with safe materials and shall be corrosion resistant, nonabsorbent, smooth, easily cleanable, and durable under conditions of normal use. Single service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(2) *Solder.* If solder is used, it shall be composed of safe materials and be corrosion resistant.

(3) *Wood.* Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in section (a), (1) of this regulation may be used for cutting blocks, cutting boards, salad bowls, and baker's table. Wood may be used for single articles, such as chop sticks, stirrers, or ice cream spoons. The use of wood as a food contact surface under other circumstances is prohibited.

(4) *Plastics.* Safe plastic, rubber, or rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in section (a), (1) of this regulation are permitted for repeated use.

(5) *Mollusk and crustacea shells.* Mollusk and crustacea shells may be used only once as a serving container. Further reuse of such shells for food service is prohibited.

(6) *Single service.* Reuse of single service articles is prohibited.

(b) *Design and fabrication.* (1) General requirements. All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing.

(A) Food contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult to clean internal corners and crevices. Cast iron may be used as a food contact surface only if the surface is heated, such as in grills, griddle tops, and skillets. Threads shall be designed to facilitate cleaning: Ordinary "V" type threads are prohibited in food contact surfaces, except in equipment such as ice makers or hot oil cooking equipment and hot oil filtering systems.

(B) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food contact surfaces.

(C) Tubing conveying beverages or beverage ingredients to dispensing heads may be in contact with stored ice if such tubing is fabricated from safe materials, is grommited at entry and exit points to preclude moisture (condensation) from entering the ice machine or the ice storage bin, and is kept clean. Drainage or drainage tubes from dispensing units shall not pass through the ice machine or the ice storage bin.

(D) Sinks and drain boards shall be self draining.

(2) *Accessibility.* Unless designed for in place cleaning, food contact surfaces shall be accessible for cleaning and inspection.

(A) Without being disassembled; or

(B) By disassembling without the use of tools; or

(C) By easy disassembling with the use of only simple tools such as a mallet, a screwdriver, or an open end wrench kept available near the equipment.

(3) *In place cleaning.* Equipment intended for in place cleaning shall be so designed and fabri-

cated that: (A) Cleaning and sanitizing solutions may be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(B) Cleaning and sanitizing solutions shall contact all interior food contact surfaces; and

(C) The system is self draining or capable of being completely evacuated.

(4) *Pressure spray cleaning.* Fixed equipment designed and fabricated to be cleaned and sanitized by pressure spray methods shall have sealed electrical wiring, switches, and connections.

(5) *Thermometers.* Indicating thermometers required for immersion into food and cooking media shall be of metal stem type construction, numerically scaled, and accurate to plus or minus three degrees Fahrenheit (3°F).

(6) *Nonfood contact surfaces.* Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(7) *Ventilation hoods.* Ventilation hoods and devices shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food contact surfaces. Filters or other grease extracting equipment shall be readily removable for cleaning and replacement if not designed to be cleaned in place.

(8) *Existing equipment.* Equipment that was installed in a food service establishment prior to the effective date of this regulation, and that does not fully meet all of the design and fabrication requirements of this section, shall be deemed acceptable in that establishment if it is in good repair, capable of being maintained in sanitary condition, and the food contact surfaces are nontoxic. Replacement equipment and new equipment acquired after the effective date of these regulations shall meet the requirements of these regulations.

(c) *Equipment installation and location.* (1) *General requirements.* Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines or water lines, open stairwells, or other sources of contamination. This requirement does not apply to automatic fire protection sprinkler heads that may be required by law.



(2) *Table mounted equipment.* (A) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four (4) inch clearance between the table or counter and equipment, and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(B) Equipment is portable within the meaning of section (c) (2) of this regulation if:

(i) It is small and light enough to be moved easily by one person; and

(ii) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(3) *Floor mounted equipment.* (A) Floor mounted equipment, unless readily movable, shall be:

(i) Sealed to the floor; or

(ii) Installed on a raised platform of concrete or other smooth masonry in a way that meets all requirements for sealing or floor clearance; or

(iii) Elevated on legs to provide at least a six (6) inch clearance between the floor and equipment. Vertically mounted floor mixers may be elevated to provide at least a four (4) inch clearance between the floor and equipment if no part of the floor under the mixer is more than six (6) inches from cleaning access.

(B) Equipment is easily movable if: (i) It is mounted on wheels or casters; and

(ii) It has no utility connection or has a utility connection that disconnects quickly, or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.

(C) Unless sufficient space is provided for easy cleaning between, behind and above each unit of fixed equipment, the space between it and adjoining equipment units and adjacent walls or ceilings shall be not more than one thirty-second ( $\frac{1}{32}$ ) inch; or if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls or ceilings.

(4) *Aisles and working spaces.* Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food contact surfaces by clothing or personal contact. All easily movable storage equipment such as pallets, racks, and dollies shall be positioned to provide accessibility to working areas. (Authorized by K.S.A.

1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

**28-36-24. Cleaning, sanitization and storage of equipment and utensils.** (a) *Equipment and utensil cleaning and sanitization.* (1)

*Cleaning frequency.* (A) Tableware shall be washed, rinsed, and sanitized after each use.

(B) To prevent cross contamination, kitchenware and food contact surfaces shall be washed, rinsed and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(C) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production line basis, utensils and the food contact surfaces shall be washed, rinsed, and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(D) The food contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day. This shall not apply to hot oil cooking equipment and hot oil filtering systems. The food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(E) Nonfood contact surfaces shall be cleaned as often as necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris.

(2) *Wiping cloths.* (A) Cloths used for wiping food spills on tableware, such as plates or bowls being served to the consumer, shall be clean, dry and used for no other purpose.

(B) Moist cloths or sponges used for wiping food spills on kitchenware and food contact surfaces shall be clean and rinsed frequently in one of the sanitizing solutions permitted in section (a) (3) of this regulation and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(C) Moist cloths or sponges used for cleaning nonfood contact surfaces such as counters, dining table tops and shelves shall be clean and rinsed as specified in section (a) (2) (B) of this regulation, and used for no other purpose. These cloths and sponges shall be stored in the sanitizing solution between uses.

(3) *Manual cleaning and sanitizing.* (A) For manual washing, rinsing and sanitizing of utensils and equipment, a sink with at least three (3) com-

partments shall be large enough to permit the accommodation of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments shall be washed manually or cleaned through pressure spray methods.

(B) Drain boards or easily movable dish tables of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing. Drain boards shall be located so as not to interfere with the proper use of the dishwashing facilities.

(C) Equipment and utensils shall be preflushed or prescraped and, when necessary, pre-soaked to remove gross food particles and soil.

(D) Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing and sanitizing shall be conducted in the following sequence:

(i) Sinks shall be cleaned prior to use.

(ii) Equipment and utensils shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

(iii) Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(iv) Equipment and utensils shall be sanitized in the third compartment according to one (1) of the methods included section (a) (3) (E) (i) through (iv) of this regulation.

(E) The food contact surfaces of all equipment and utensils shall be sanitized by: (i) Immersion for at least one half ( $\frac{1}{2}$ ) minute in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit ( $170^{\circ}\text{F}$ ); or

(ii) Immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit ( $75^{\circ}\text{F}$ ); or

(iii) Immersion for at least one (1) minute in a clean solution containing at least twelve and five tenths (12.5) parts per million of available iodine and having a pH not higher than five (5.0) and at a temperature of at least seventy-five degrees Fahrenheit ( $75^{\circ}\text{F}$ ); or

(iv) Immersion in a clean solution containing any other chemical sanitizing agent allowed by the regulatory authority that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlo-

rine as a hypochlorite at a temperature of at least seventy-five degrees Fahrenheit ( $75^{\circ}\text{F}$ ) for one (1) minute; or

(v) Treatment with steam free from materials or additives other than those allowed by the regulatory authority in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(vi) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under section (a) (3) (E) (iv) of this regulation in the case of equipment too large to sanitize by immersion.

(F) When hot water is used for sanitizing, the following facilities shall be provided and used; (i) An integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit ( $170^{\circ}\text{F}$ ); and

(ii) A numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit ( $3^{\circ}\text{F}$ ), convenient to the sink for frequent checks of water temperature; and

(iii) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(G) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted by these regulations and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(4) *Mechanical cleaning and sanitizing.* (A) Cleaning and sanitizing may be done by spray type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. These machines and devices shall be properly installed and maintained in good repair. Machines and devices shall be operated in accordance with manufacturers' instructions, and utensils and equipment placed in the machine shall be exposed to all dishwashing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors, if any, shall be properly installed and maintained.

(B) The pressure of final rinse water supplied to spray type dishwashing machines shall not be less than fifteen (15) nor more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the final rinse

control valve. A one fourth (1/4) inch internal pipe size valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the rinse water.

(C) Machine or water line mounted numerically scaled indicating thermometers, accurate to plus or minus three degrees Fahrenheit (3°F), shall be provided to indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(D) Rinse water tanks shall be protected by baffles, curtains, or other effective means to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles in accordance with manufacturers' specifications.

(E) Drain boards shall be provided and be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization. Drain boards shall be located and constructed not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or for the storage of clean utensils following sanitization.

(F) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to being washed in a dishwashing machine unless a pre-wash cycle is a part of the dishwashing machine operation. Equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse waters and that permits free draining.

(G) Machines (single tank, stationary rack, door type machines and spray type glass washers) using chemicals for sanitization shall be used as follows: (i) The temperature of the wash water shall not be less than one hundred twenty degrees Fahrenheit (120°F).

(ii) The wash water shall be kept clean.

(iii) Chemicals added for sanitization purposes shall be automatically dispensed.

(iv) Utensils and equipment shall be exposed to the final chemical sanitizing rinse in accordance with manufacturers' specifications for time and concentration.

(v) The chemical sanitizing rinse water temperature shall be not less than seventy-five degrees Fahrenheit (75°F) nor less than the tem-

perature specified by the machine's manufacturer.

(vi) Chemical sanitizers shall meet the requirements of 21 C.F.R. Sec. 121.2547 (ref. 15).

(vii) A test kit or other device that accurately measures the parts per million concentration of the solution shall be available and used.

(H) Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water shall be kept clean and water shall be maintained at not less than the temperature stated in section (a) (4) (H) (i) through (v) of this regulation: (i) Single tank, stationary rack, dual temperature machine:

Wash temperature ..... 150°F

Final rinse temperature ..... 180°F

(ii) Single tank, stationary rack, single temperature machine:

Wash temperature ..... 165°F

Final rinse temperature ..... 165°F

(iii) Single tank, conveyor machine:

Wash temperature ..... 160°F

Final rinse temperature ..... 180°F

(iv) Multitank, conveyor machine:

Wash temperature ..... 150°F

Pumped rinse temperature ..... 160°F

Final rinse temperature ..... 180°F

(v) Single tank, pot, pan, and utensil washer (either stationary or moving rack):

Wash temperature ..... 140°F

Final rinse temperature ..... 180°F

(I) All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(5) *Drying.* After sanitization, all equipment and utensils shall be air dried.

(b) *Equipment and utensil storage.* (1) *Handling.* Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, bowls, plates and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.

(2) *Storage.* (A) Cleaned and sanitized utensils and equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer lines

or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(B) Utensils shall be air dried before being stored or, shall be stored in a self draining position.

(C) Glasses and cups shall be stored inverted. Other stored utensils shall be covered or inverted, wherever practical. Facilities for the storage of knives, forks, and spoons shall be designed and used to present the handle to the employee or consumer. Unless tableware is prewrapped, holders for knives, forks, and spoons at self service locations shall protect these articles from contamination and present the handle of the utensil to the consumer.

(3) *Single service articles.* (A) Single service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines, except for automatic fire protection sprinkler heads that may be required by law.

(B) Single service articles shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(C) Single service knives, forks and spoons packaged in bulk shall be inserted into holders or be wrapped by an employee who has washed his or her hands immediately prior to sorting or wrapping the utensils. Unless single service knives, forks and spoons are prewrapped or prepackaged, holders shall be provided to protect these items from contamination and present the handle of the utensil to the consumer.

(4) *Prohibited storage area.* The storage of food equipment, utensils or single service articles in toilet rooms or vestibules is prohibited. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

**28-36-25. Sanitary facilities and controls.** (a) *Water supply.* (1) *General requirements.* Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to K.S.A. 65-163.

(2) *Transportation.* All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these sys-

tems shall be constructed and operated according to methods approved by the regulatory authority.

(3) *Bottled water.* Bottled and packaged potable water shall be obtained from an approved source and shall be handled and stored in a way that protects it from contamination. Bottled and packaged potable water shall be dispensed from the original container.

(4) *Water under pressure.* Water under pressure at the required temperatures shall be provided to all fixtures and equipment that use water.

(5) *Steam.* Steam used in contact with food or food contact surfaces shall be free from any materials or additives other than those allowed by the regulatory authority.

(b) *Sewage. General requirements.* All sewage shall be disposed of by a public sewer system or by a sewage disposal system constructed and operated according to K.S.A. 65-164 *et seq.* Non-water-carried sewage disposal facilities shall be prohibited, except as permitted by K.A.R. 28-36-28 (1) through (8), or as permitted by the regulatory authority.

(c) *Plumbing.* (1) *General requirements.* Plumbing shall be sized, installed and maintained according to applicable local plumbing codes. In the absence of such a code, the requirements set forth in the uniform plumbing code, published by International Association of Plumbing and Mechanical Officials, as in effect on September, 1969, shall apply. There shall be no cross connection between the potable water supply and any nonpotable or questionable water supply, nor any source of pollution through which the potable water supply might become contaminated.

(2) *Nonpotable water system.* A nonpotable water system shall be permitted only if the nonpotable water does not contact food, potable water, or equipment that contacts food or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) *Backflow.* The potable water system shall be installed to preclude the possibility of backflow. If an air gap at least twice the diameter of the water supply inlet is not provided between the water supply inlet and the fixture's flood level rim, devices shall be installed to protect against backflow and back siphonage at all fixtures and equipment. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

(4) *Grease traps.* If used, grease traps shall be easily accessible for necessary cleaning and main-

tenance. Toilet wastes shall not be discharged through grease traps.

(5) *Garbage grinders.* If used, garbage grinders shall be properly installed and maintained. Garbage grinders shall be installed in all new and newly constructed establishments unless this requirement is waived by the regulatory authority.

(6) *Drains.* Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment, or utensils are placed.

(d) *Toilet facilities.* (1) *Toilet installation.* Toilet facilities shall be installed according to applicable state and local requirements or as approved by the regulatory authority. Toilet facilities shall be conveniently located, and shall be accessible to employees and patrons at all times, except that food service establishments which have no seating arrangements shall not be required to provide patron access to toilet facilities. Separate toilet facilities shall be provided for each sex in all new, newly constructed, or extensively remodeled facilities which offer food consumption arrangements for 10 or more persons on the premises.

(2) *Toilet design.* Toilets and urinals shall be designed to be easily cleanable.

(3) *Toilet rooms.* Toilet rooms shall be completely enclosed and shall have tight fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.

(4) *Toilet fixtures.* Toilet fixtures shall be kept clean, in good repair, and free of objectionable odors. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms used by women shall have at least one covered waste receptacle.

(e) *Hand washing lavatory facilities.* (1) *Lavatory installation.* (A) Hand washing lavatories shall be properly installed and located in or immediately adjacent to food preparation areas to permit convenient use by all employees working in food preparation areas or utensil washing areas, or both.

(B) Hand washing lavatories shall be accessible to employees at all times.

(C) Hand washing lavatories shall also be located in or immediately adjacent to toilet rooms or vestibules. Sinks used for food preparation or for washing equipment or utensils shall not be used for hand washing.

(2) *Lavatory faucets.* Each lavatory shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for at least 15 seconds without the need to reactivate the faucet. Steam mixing valves are prohibited.

(3) *Lavatory supplies.* A supply of hand cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, easily cleanable waste receptacles shall be conveniently located near the hand washing facilities.

(4) *Lavatory maintenance.* Lavatories, soap dispensers, hand-drying devices and all related fixtures shall be kept clean and in good repair.

(f) *Garbage and refuse.* (1) *Containers.* (A) Garbage and refuse shall be kept in durable, easily cleanable, insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and they may be used for storage inside the food service establishment.

(B) Containers used in food preparation and utensil washing areas shall be kept covered after they are filled.

(C) Containers stored outside the establishment, dumpsters, compactors and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors or covers, and shall be kept covered when not in actual use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.

(D) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(E) Soiled containers shall be cleaned at a frequency to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils or food preparation areas. Suitable facilities, including hot water and detergent or steam, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

(2) *Storage.* (A) Garbage and refuse on the premises shall be stored in a manner to make

them inaccessible to insects and rodents. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse shall be prohibited.

(B) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect proof and rodent proof and shall be large enough to store the garbage and refuse containers that accumulate.

(C) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers, dumpsters and compactor systems located outside shall be stored on or above a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt that is kept clean and maintained in good repair.

(3) *Disposal.* (A) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(B) If garbage or refuse is burned on the premises, it shall be burned by controlled incineration methods meeting the requirements of K.S.A. 65-3001, *et seq.* Areas around incineration facilities shall be clean and orderly.

(g) *Insect and rodent control.* (1) *General requirements.* Effective measures intended to minimize the presence of rodents, flies, cockroaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(2) *Openings.* Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, intake and exhaust air ducts, and other openings to the outside shall be tight fitting and free of breaks. Screening material shall not be less than 16 mesh to the inch. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508, K.S.A. 1982 Supp. 36-503; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended, T-83-47, Dec. 8, 1982; modified, L. 1983 ch. 350, May 1, 1983.)

28-36-26. **Construction and maintenance of physical facilities.** (a) *Floors.* (1) *Floor construction.* Floors and floor coverings of all food preparation, food storage, and utensil washing areas, and the floors of all walk-in refrigerating units, dressing rooms, locker rooms, toilet rooms and vestibules shall be constructed of smooth durable material and shall be maintained in good repair. Nothing in this section shall prohibit the use of antislip floor covering in areas where necessary for safety reasons.

(2) *Floor carpeting.* Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable and maintained in good repair. Carpeting is prohibited in food preparation, equipment washing and utensil washing areas where it would be exposed to large amounts of grease and water, in food storage areas, and toilet rooms where urinals or toilet fixtures are located.

(3) *Prohibited floor covering.* The use of sawdust, wood shavings, peanut hulls, or similar material as a floor covering is prohibited.

(4) *Floor drains.* Properly installed, trapped floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment, or in areas where pressure spray methods for cleaning equipment are used. Such floors shall be constructed only of sealed concrete, terrazzo, ceramic tile or similar materials, and shall be graded to drain.

(5) *Mats and duckboards.* Mats and duckboards shall be of nonabsorbent, grease resistant materials and of such size, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

(6) *Floor junctures.* In all new or extensively remodeled establishments utilizing concrete, terrazzo, ceramic tile or similar flooring materials, and where water flush cleaning methods are used, the junctures between walls and floor shall be coved and sealed. In all other cases, the juncture between walls and floor shall not present an open seam of more than one thirty-second ( $\frac{1}{32}$ ) inch.

(7) *Utility line installation.* Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the floor. In all new or extensively remodeled establishments, installation of exposed horizontal utility lines and pipes on the floor is prohibited.

(b) *Walls and ceilings.* (1) *Maintenance.* Walls and ceilings, including doors, windows, skylights,

and similar closures, shall be maintained in good repair.

(2) *Construction.* The walls, including nonsupporting partitions, wall coverings, and ceilings of walk-in refrigerating units, food preparation areas, equipment and utensil washing areas, toilet rooms and vestibules shall be light colored, smooth, non-absorbent, and easily cleanable. Concrete or pumice blocks used for interior wall construction in these locations shall be finished and sealed to provide an easily cleanable surface.

(3) *Exposed construction.* Studs, joists, and rafters shall not be exposed in walk-in refrigerating units, food preparation areas, equipment and utensil washing areas, toilet rooms and vestibules.

(4) *Utility line installation.* Exposed utility service lines and pipes shall be installed in a way that does not obstruct or prevent cleaning of the walls and ceilings. Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in walk-in refrigerating units, food preparation areas, equipment and utensil washing areas, toilet rooms and vestibules.

(5) *Attachments.* Light fixtures, vent covers, wall mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(6) *Covering material installation.* Wall and ceiling covering materials shall be attached and sealed so as to be easily cleanable.

(c) *Cleaning physical facilities.* (1) *General requirements.* Cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used.

(2) *Utility facility.* In new or extensively remodeled establishments at least one (1) utility sink or curbed cleaning facility with a floor drain shall be provided and used for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of lavatories, utensil or equipment washing, or food preparation sinks for this purpose is prohibited.

(d) *Lighting.* (1) *General requirements.* (A) Permanently fixed artificial light sources shall be installed to provide at least twenty (20) foot candles of light on all food preparation surfaces and at equipment or utensil washing work levels.

(B) Permanently fixed artificial light sources shall be installed to provide, at a distance of thirty (30) inches from the floor: (i) At least twenty (20) foot candles of light in utensil and equipment storage areas and in lavatory and toilet areas; and

(ii) At least ten (10) foot candles of light in walk-in refrigerating units, dry food storage areas, and in all other areas. This shall also include dining areas during cleaning operations.

(2) *Protective shielding.* (A) Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.

(B) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(e) *Ventilation.* (1) *General requirements.* All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated according to requirements established by the Kansas state fire marshal and, when vented to the outside, shall not create an unsightly, harmful or unlawful discharge.

(2) *Special ventilation.* (A) Intake and exhaust air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials.

(B) In new or extensively remodeled establishments, all rooms from which obnoxious odors, vapors or fumes originate shall be mechanically vented to the outside.

(f) *Dressing rooms and locker areas.* (1) *Dressing rooms and dressing areas.* If employees routinely change clothes within the establishment, rooms or areas shall be designated and used for that purpose. These designated rooms or areas shall not be used for food preparation, storage or service, or for utensil washing or storage.

(2) *Locker areas.* Enough lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other belongings. Lockers or other suitable facilities shall be located only in the designated dressing rooms or in food storage rooms or areas containing only completely packaged food or packaged single service articles.

(g) *Poisonous or toxic materials.* (1) *Materials permitted.* There shall be present in food service

establishments only those poisonous or toxic materials necessary for maintaining the establishment, cleaning and sanitizing equipment and utensils, and controlling insects and rodents.

(2) *Labeling of materials.* Containers of poisonous or toxic materials shall be prominently and distinctly labeled according to applicable labeling requirements for easy identification of contents.

(3) *Storage of materials.* (A) Poisonous or toxic materials consist of the following categories: (i) Insecticides and rodenticides;

(ii) Detergents, sanitizers, and related cleaning or drying agents.

(iii) Caustics, acids, polishes, and other chemicals.

(B) Each of the three (3) categories set forth in paragraph (a) of this section shall be stored and physically located separate from each other. All poisonous or toxic materials shall be stored in cabinets or in a similar physically separate place used for no other purpose. To preclude contamination, poisonous or toxic materials shall not be stored above food, food equipment, utensils or single service articles. This requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

(4) *Use of materials.* (A) Bactericides, cleaning compounds or other compounds intended for use on food contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces or that constitutes a hazard to employees or other persons.

(B) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons, nor in a way other than in full compliance with the manufacturer's labeling.

(5) *Personal medications.* Personal medications shall not be stored in food storage, preparation or service areas.

(6) *First aid supplies.* First aid supplies shall be stored in a way that prevents them from contaminating food and food contact surfaces.

(h) *Premises.* (1) *General requirements.* (A) Food service establishments and all parts of property used in connection with their operations shall be kept free of litter.

(B) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt, or with gravel or similar material effectively treated to facilitate maintenance and minimize dust. These surfaces

shall be graded to prevent pooling and shall be kept free of litter.

(C) Only articles necessary for the operation and maintenance of the food service establishment shall be stored on the premises.

(D) The traffic of unnecessary persons through the food preparation and utensil washing areas is prohibited.

(2) *Living areas.* No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. Food service operations shall be separated from any living or sleeping quarters by complete partitioning and solid, self closing doors.

(3) *Laundry facilities.* (A) Laundry facilities in a food service establishment shall be restricted to the washing and drying of linens, cloths, uniforms and aprons necessary to the operation. If such items are laundered on the premises, an electric or gas dryer shall be provided and used.

(B) Separate rooms shall be provided for laundry facilities except that such operations may be conducted in storage rooms containing only packaged foods or packaged single service articles.

(4) *Linens and clothes storage.* (A) Clean clothes and linens shall be stored in a clean place and protected from contamination until used.

(B) Soiled clothes and linens shall be stored in nonabsorbent containers or washable laundry bags until removed for laundering.

(5) *Cleaning equipment storage.* Maintenance and cleaning tools shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linens and shall be stored in an orderly manner for the cleaning of that storage location.

(6) *Animals.* Live animals shall be excluded from within the food service operational premises and from adjacent areas under the control of the permit holder. This exclusion does not apply to edible fish, crustacea, shellfish, or to fish in aquariums. Guide dogs accompanying blind or deaf persons shall be permitted in dining areas. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

**28-36-27. Mobile food units or pushcarts.** (a) *Mobile food units.* (1) *General requirements.* Mobile food units or pushcarts shall comply with the requirements of this regulation, except as otherwise provided in this paragraph and in section (a) (2) of this regulation. The regulatory authority may impose additional require-



ments to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard shall result, may waive or modify requirements of this regulation relating to physical facilities, except those requirements of sections (a) (4), (a) (5), (b) (1), (c) (1) and (c) (2) of this regulation.

(2) *Restricted operation.* Mobile food units or pushcarts serving only food prepared, packaged in individual servings, transported and stored under conditions meeting the requirements of these regulations, or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment, need not comply with requirements of these regulations pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at the commissary.

(3) *Single service articles.* Mobile food units or pushcarts shall provide only single service articles for use by the consumer.

(4) *Water system.* A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning, sanitizing and hand washing. The water inlet shall be located so that it shall not be contaminated by waste discharge, road dust, oil, or grease, and it shall be kept capped unless being filled. The water inlet shall be provided with a transition connection of a size or type that shall prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed in accordance with the requirements of these regulations.

(5) *Waste retention.* If liquid waste results from operation of a mobile food unit, the waste shall be stored in a permanently installed retention tank that is of at least fifteen percent (15%) larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the mobile food unit. The waste connection shall be located lower than the water inlet connection to preclude contamination of the potable water system.

(b) *Commissary. Base of operations.* (1) Mobile food units or pushcarts shall operate from a commissary or other fixed food service establishments and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.

(2) The commissary or other fixed food service establishment used as a base of operation for mobile food units or pushcarts shall be constructed and operated in compliance with the requirements of these regulations.

(c) *Servicing area and operations.* (1) *Servicing area.* (A) A mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separated from the location provided for water servicing and for the loading and unloading of food and related supplies. This servicing area shall not be required where only packaged food is placed on the mobile food unit or pushcart or where mobile food units do not contain waste retention tanks.

(B) The surface of the servicing area shall be constructed of a smooth nonabsorbent material, such as concrete or machine laid asphalt and shall be maintained in good repair, kept clean, and be graded to drain.

(C) The construction of the walls and ceilings of the servicing area is exempted from the requirements of K.A.R. 28-36-26 (b) (1) through (b) (6).

(2) *Servicing operations.* (A) Potable water servicing equipment shall be installed, stored and handled in a way that protects the water and equipment from contamination.

(B) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system in accordance with K.A.R. 28-36-25 (b). (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

**28-36-28. Temporary food service.** (a) *Temporary food service establishments.* (1) *General requirements.* A temporary food service establishment shall comply with the requirements of K.A.R. 28-36-20 through 28-36-29, except as otherwise provided in this regulation. The regulatory authority may impose additional require-

ments to protect against health hazards related to the conduct of the temporary food service establishment. The regulatory authority may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of these regulations.

(2) *Restricted operations.* (A) These provisions are applicable whenever a temporary food service establishment is permitted, under the provisions of section (a) (1) of this regulation, to operate without complying with all the requirements of this regulation.

(B) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters that only require seasoning and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs or fish is prohibited. This prohibition does not apply to any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of these regulations, is obtained in individual servings, is stored at a temperature of forty-five degrees Fahrenheit (45°F) or below or at a temperature of one hundred forty degrees Fahrenheit (140°F) or above in facilities meeting the requirements of these regulations, and is served directly in the unopened container in which it was packaged.

(3) *Ice.* Ice that is consumed or that contacts food shall be made under conditions meeting the requirements of these regulations. The ice shall be obtained only in chipped, crushed, or cubed form and in single use safe plastic or wet strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until it is dispensed in a way that protects it from contamination.

(4) *Equipment.* (A) Equipment shall be located and installed in a way that prevents food contamination and that also facilitates cleaning the establishment.

(B) Food contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Effective shields for such equipment shall be provided, as necessary, to prevent contamination.

(5) *Single service articles.* All temporary food service establishments without effective facilities for cleaning and sanitizing tableware shall provide

only single service articles for use by the consumer.

(6) *Water.* Enough potable water shall be available in the establishment for food preparation, for cleaning and sanitizing utensils and equipment, and for hand washing. A heating facility capable of producing enough hot water for these purposes shall be provided on the premises.

(7) *Wet storage.* Storage of packaged food in contact with water or undrained ice is prohibited. Wrapped sandwiches shall not be stored in direct contact with ice.

(8) *Waste.* All sewage, including liquid waste, shall be disposed of according to K.A.R. 28-36-25 (b).

(9) *Hand washing.* A convenient hand washing facility shall be available for employee hand washing. This facility shall consist of warm or hot running water, soap and individual paper towels.

(10) *Floors.* Floors shall be constructed of concrete, asphalt, tight wood, or other similar cleanable material kept in good repair. Dirt or gravel, when graded to drain, may be used as subflooring when covered with clean, removable platforms or duckboards, or covered with wood chips, shavings or other suitable materials effectively treated to control dust.

(11) *Walls and ceilings of food preparation areas.* (A) Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from environmental contamination. Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects and rodents. Doors to food preparation areas shall be solid or screened and shall be self closing. Screening material used for walls, doors, or windows shall be at least sixteen (16) mesh to the inch.

(B) Counter service openings shall not be larger than necessary for the particular operation conducted. These openings shall be provided with tight fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Counter service openings shall be kept closed, except when in actual use. (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979.)

**28-36-29. Inspections; violations; plan reviews; diseases; waivers.** (a) Inspections. Whenever an inspection of a food service establishment or commissary is made, the findings shall

be recorded on an inspection report form devised or prescribed by the secretary. A copy of the completed inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. A copy of the inspection report may be obtained by the owner of the establishment upon written request.

(b) Correction of violations.

(1) The completed inspection report form shall specify a definite period of time for the correction of the violations found; and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions.

(A) All violations of four or five point weighted items not constituting an imminent health hazard shall be corrected as soon as possible, but no later than 10 days following inspection unless extended by the regulatory authority. The person in charge of the facility, if required by the regulatory authority, shall notify the regulatory authority within the specified time period, stating compliance or noncompliance with cited regulations.

(B) All one or two point weighted items shall be corrected as soon as possible, but no later than the time of the next routine inspection. Repeated identical violations of one or two point weighted items shall be corrected within 30 days following inspection.

(C) When the rating score of the establishment is less than 70, the establishment shall immediately cease food service operations.

(c) Plan review. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for the construction, remodeling, or conversion shall be submitted to the regulatory authority for functional review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans, and construction materials or work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of K.A.R. 28-36-20 through 28-36-29, and any amendments to those rules and regulations. No food service establishment shall be constructed, extensively remodeled, or converted except in accordance with plans and specifications approved by the regulatory authority. Approval of plans by

the regulatory authority shall not negate the liability of the applicant to comply with the requirements of these rules and regulations.

(d) Procedure when infection is suspected.

(1) If the regulatory authority has reasonable causes to suspect possible disease transmission by an employee of a food service establishment, it may secure a morbidity history of the suspected employee or make any other investigation as indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

(A) The immediate exclusion of the employee from employment in the food service establishment;

(B) the immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease transmission exists;

(C) restriction of the employee's services to some area of the establishment where there would [be] no danger of transmitting disease; or

(D) adequate medical and laboratory examination of the employee and of other employees and of their body discharges.

(e) Waiver. The regulatory authority shall waive individual requirements of K.A.R. 28-36-20 through 28-36-29, if the regulatory authority determines that the objectives of these regulations can be maintained. Such waiver shall be specified on the inspection report. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508, K.S.A. 1982 Supp. 36-515a; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended, T-83-47, Dec. 8, 1982; amended May 1, 1983.)

#### APPLICATION AND LICENSE FEES

28-36-30. **Fees.** (a) The food service establishment license fee shall be \$70.

(b) The food service establishment license application fee shall be \$90. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-503, amended by L. 1993 Ch. 196, sec. 1; effective, E-79-16, July 1, 1978; effective May 1, 1979; amended, E-82-21, Nov. 16, 1981; amended May 1, 1982; amended Dec. 30, 1991; amended Sept. 27, 1993.)

28-36-31. **Lodging establishment application fees.** The application fee for all lodging establishments doing business in Kansas shall be based on the number of rooms as follows:

1 room to 9 rooms	5 \$30
10 rooms to 29 rooms	5 \$50
30 rooms or more	5 \$100

(Authorized by K.S.A. 1978 Supp. 36-502; effective, E-79-16, July 1, 1978; effective May 1, 1979.)

**28-36-32. Food vending machine company application fees.** The application fee for any food vending machine company doing business in Kansas shall be thirty dollars (\$30). (Authorized by K.S.A. 1978 Supp. 36-504; effective, E-79-16, July 1, 1978; effective May 1, 1979.)

#### LODGING ESTABLISHMENTS

**28-36-33. Definitions.** Definitions adopted pursuant to K.A.R. 28-36-20, shall be applicable to lodging establishments. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-34. Walk ways and driving surfaces.** Walk ways and driving surfaces shall be constructed to pose no walking or driving hazards. Walking and driving surfaces shall be constructed to facilitate drainage and eliminate standing water. This regulation shall not conflict with applicable local codes having requirements equally stringent. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-35. Floors, walls, and ceilings.** Floors in public areas, guest rooms other than toilet areas, may be covered with carpet that is maintained clean and in good repair. Junctures between floors and walls in guest rooms and public areas shall be coved or finished with mopboards or otherwise constructed to be easily cleanable. Walls and ceilings shall be clean and maintained in good repair. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-36. Furnishings.** Furniture in guest rooms and public use areas shall be clean, constructed so as to be easily cleanable, and maintained in safe condition. Linens used by guests shall not be used as dusting or wiping cloths on furniture, walls, equipment attached thereto, vanities, lavatories, or toilet fixtures. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-37. Lighting.** Exterior walking surfaces and corridors routinely used or used in the event of emergency by guests of the facility shall be provided with at least ten (10) foot candles of light. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-38. Cleaning, sanitization, and storage of drinking glasses.** (a) Drinking glasses provided for use by guests may be of single service or multiuse construction. When drinking glasses are used which are constructed for single service use only, they shall be used only once and then discarded in a manner that prohibits reuse. When drinking glasses are used which are constructed for multiple use, they shall, prior to being distributed to guest rooms or other areas for use, be washed, rinsed, and sanitized. Washing of drinking glasses in guest rooms shall be prohibited. (1) Manual washing, rinsing, and sanitizing of drinking glasses shall be conducted in a sink with at least three (3) compartments supplied with hot and cold potable running water. Manual washing, rinsing, and sanitizing shall be conducted in the following sequence: (A) Sinks shall be cleaned prior to use.

(B) Drinking glasses shall be thoroughly washed in the first compartment with a hot detergent solution that is kept clean.

(C) Drinking glasses shall be rinsed free of detergent and abrasives with clean water in the second compartment.

(D) Drinking glasses shall be sanitized in the third compartment according to one of the following methods: (i) Immersion for at least one-half (½) minute in clean hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); or

(ii) Immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or

(iii) Immersion for at least one (1) minute in a clean solution containing at least twelve and five-tenths (12.5) parts per million of available iodine and having a pH not higher than five (5.0), and at a temperature of at least seventy-five degrees Fahrenheit (75°F); or

(iv) Immersion in a clean solution containing any other chemical sanitizing agent allowed by the regulatory authority that will provide the equivalent bacterial effect of a solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite at a temperature of at least seventy-five degrees Fahrenheit (75°F) for one (1) minute.

(2) When hot water is used for sanitizing, the following facilities shall be provided and used: (A) An integral heating device or fixture installed in,

on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F); and

(B) A numerically scaled indicating thermometer accurate to plus or minus three degrees Fahrenheit (6 3°F), convenient to the sink for frequent checks of water temperature; and

(C) Dish baskets of such size and design to permit complete immersion of the drinking glasses in the hot water.

(3) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted by these regulations and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(4) Cleaning and sanitizing of drinking glasses may be done by spray type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes drinking glasses. Mechanical cleaning and sanitizing shall be conducted in accordance with K.A.R. 28-36-24(4).

(5) After sanitization, all drinking glasses shall be air dried.

(6) Drain boards or easily movable dish tables shall be provided for proper handling of soiled drinking glasses prior to washing and for cleaned drinking glasses following sanitizing.

(7) Cleaned and sanitized drinking glasses shall be handled in a way that protects them from contamination. Drinking glasses shall be handled without contact with the inside surfaces or surfaces that contact the user's mouth.

(b) Glasses may be washed, rinsed, and sanitized using the equipment of a licensed food service establishment operated in connection with the lodging establishment.

(c) *Storage.* (1) Cleaned and sanitized drinking glasses shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. Drinking glasses shall not be placed under exposed sewer lines or water lines except for automatic fire protection sprinkler heads that may be required by law.

(2) Drinking glasses shall be stored inverted.

(3) Drinking glasses shall be stored in guest rooms in a way that protects them from contamination.

(4) Single service drinking glasses shall be stored at least six (6) inches above the floor in

closed cartons or containers which protect them from contamination and shall not be placed under exposed sewer lines or water lines except for automatic fire protection sprinkler heads that may be required by law.

(5) Single service drinking glasses shall be handled and dispensed in a manner that prevents contamination of surfaces which may come in contact with food or with the mouth of the user.

(6) The storage of single service or multi-use drinking glasses in toilet rooms or vestibules is prohibited.

(d) Ice buckets or containers used for the dispensing of ice shall comply with all requirements established for drinking glasses pertaining to washing, rinsing, sanitizing, storage, reuse, and protection from contamination. The reuse of unprotected styrofoam ice containers is prohibited. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-39. Ice dispensing.** (a) In all new, newly constructed or extensively remodeled facilities ice dispensing equipment shall be constructed or located to prevent the direct accessibility to bulk ice storage compartments by guests or the public. This requirement shall be met by the use of automatic ice dispensing machines, prepackaged ice, containers of ice provided by employees from ice sources inaccessible to guests or the general public, or by any other method approved by the regulatory authority. In existing lodging establishments all replacement ice making equipment shall be of such design construction or location to prevent accessibility to bulk ice storage compartments by guests or the public. Ice not manufactured on the premises shall be obtained from an approved source and manufactured from potable water.

(b) Ice bins shall be cleaned at least monthly or more often if necessary. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

**28-36-40. Toilet rooms and vestibules.**

(a) In all new, newly constructed or extensively remodeled lodging facilities separate and complete toilet facilities shall be provided for each individual lodging unit.

(b) *Toilet room floors.* (1) Floors in toilet rooms shall be constructed of smooth, nonabsorbent, easily cleanable materials and maintained in good repair.

(2) Junctures between toilet room floors and walls shall be provided with coving to facilitate cleaning.

(3) Carpeting is prohibited in toilet rooms.

(4) Carpeting may be permitted in vestibules if kept cleaned and maintained in good condition.

(c) *Toilet room fixtures.* (1) Toilet room fixtures shall be of sanitary design and maintained in good repair.

(2) Floors of bathtubs and showers shall be designed or provided with non-slip surfaces.

(3) Lavatories shall be provided with hot and cold potable running water under pressure by means of a mixing valve or combination faucet. The temperature of hot water supplied to any guest room shall not exceed one hundred thirty degrees Fahrenheit (130°F).

(d) *Toilet room walls and ceilings.* Walls including those in showers and bathtub enclosures shall be smooth, nonabsorbent and easily cleanable. Walls and ceilings shall be maintained in good repair.

(e) In all new, newly constructed or extensively remodeled lodging facilities toilet rooms shall be mechanically vented to the outside, or by an approved recirculating and filtering system. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

28-36-41. **Insect and rodent control.** (a) Effective measures to minimize the presence of rodents, flies, cockroaches and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(b) Openings to the outside shall be effectively protected against the entrance of rodents. Outside openings shall be protected against the entrance of insects or rodents by tight fitting doors, closed windows, screening, or other means. Screens for windows, doors, skylights, intake and exhaust air ducts, and other openings to the outside shall be tight fitting and free of breaks. Screening materials shall not be less than sixteen (16) mesh to the inch. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

28-36-42. **Housekeeping facilities and equipment.** (a) *Service carts.* Maid's carts or service carts shall be maintained to prevent cross contamination between soiled and clean linens. Provisions shall be provided to protect drinking glasses and ice buckets from contamination by

soiled linens, cleaning and sanitizing agents, poisonous and toxic materials, or other sources of contamination.

(b) *Janitor's facilities.* (1) A specific area or location shall be provided for the storage and maintenance of cleaning supplies and equipment.

(2) Cleaning supplies and equipment shall not be stored with clean linens, food, or food utensils.

(3) Cleaning supplies and equipment shall be stored in a manner preventing cross contamination of cleaned linens. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

28-36-43. **Laundry facilities.** (a) A laundry shall be provided unless commercial laundry facilities are used. (1) Laundry for the facility done commercially either entirely or in part shall have: (A) adequate space for sorting and storing soiled linens;

(B) Storage space located to preclude cross contamination of clean linens;

(C) Storage space located to facilitate convenient pickup and delivery.

(2) Laundry done in the lodging establishment either entirely or partially shall: (A) Be located in areas that are not used by guests or the public, and not used as corridors or passageways;

(B) Be arranged so as to provide for the physical or functional separation of clean and dirty areas;

(C) Laundry rooms shall be kept clean and free from accumulated lint and dust;

(D) Laundry rooms shall not be used for storage of equipment or supplies not related to the laundering process.

(b) Laundry carts or maid's carts shall not permit cross contamination between soiled and clean linens. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

28-36-44. **Plumbing and electrical wiring.** (a) *Plumbing.* In all new, newly constructed or extensively remodeled lodging establishments, plumbing shall be installed and maintained in accordance with applicable local plumbing codes. In the absence of local plumbing codes, plumbing shall be installed and maintained in accordance with the latest edition of the uniform plumbing code. In all lodging establishments constructed and licensed prior to enforcement of this regulation all plumbing shall be installed and maintained to prevent backflow, backsiphonage and cross connections from occurring. All plumbing systems shall be maintained to prevent leakage or seepage from either water supply or sewage disposal systems.

(b) **Electrical wiring.** In all new, newly constructed or extensively remodeled lodging establishments, electrical wiring shall be installed in accordance with applicable local codes. In the absence of such local codes, electrical wiring shall be installed in accordance with the latest edition of the national electrical code. In facilities constructed and licensed prior to effective date of this regulation electrical wiring systems shall be maintained to present no hazard. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

28-36-45. **Personnel.** (a) The outer clothing of all employees shall be clean. Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices during all working periods in the lodging establishment.

(b) All personnel known to be infected with a disease in a communicable form or having communicable skin lesions shall be restricted from work until well. (Authorized by K.S.A. 1978 Supp. 36-506; effective May 1, 1979.)

28-36-46. **Water supply.** Sufficient potable water to meet the needs of any lodging establishment shall be provided from a source constructed and operated according to K.S.A. 65-163. (Authorized by and implementing K.S.A. 36-506; effective May 1, 1983.)

28-36-47. **Sewage.** All sewage generated by any lodging establishment shall be disposed of by a public sewer system or by a sewage disposal system constructed and operated according to K.S.A. 65-164 *et seq.* Nonwater carried sewage disposal facilities shall be permitted only as approved by the regulatory authority in response to emergency occurrences. (Authorized by and implementing K.S.A. 36-506; effective May 1, 1983.)

28-36-48. **Bedding.** Clean bed linens, unused by any other person since the last laundering, shall be furnished on all beds available for use by any guest or patron. Beds, mattresses, bed coverings and pillows shall be kept clean, free from dust, dirt and vermin. No bedding shall be used which is badly worn or unfit for further use. (Authorized by and implementing K.S.A. 36-507; effective May 1, 1983.)

28-36-49. **Soap and towels.** Soap and clean towels and wash cloths, unused by any other person since the last laundering, shall be fur-

nished daily to each guest. (Authorized by and implementing K.S.A. 36-507; effective May 1, 1983.)

### Article 36a.—RESTAURANTS

#### Editor's Note:

For regulations on same subject, see agency 28, article 36.

28-36a-1. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-36a-2. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-36a-3 to 28-36a-8. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-36a-9. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-36a-10 to 28-36a-15. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-36a-16. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; amended, E-68-13, May 13, 1968; amended Jan. 1, 1969; revoked May 1, 1979.)

28-36a-17. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

28-36a-18 to 28-36a-24. (Authorized by K.S.A. 36-302, 36-304, 36-305, K.S.A. 1967 Supp. 36-301, 36-303; effective Jan. 1, 1968; revoked, E-79-29, Oct. 24, 1978; revoked May 1, 1979.)

### Article 37.—HOTELS, MOTELS, ROOMING HOUSES AND APARTMENT HOUSES

#### Editor's Note:

For regulations on same subject, see agency 28, article 36.

28-37-1 to 28-37-5. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked May 1, 1979.)

28-37-6. (Authorized by K.S.A. 36-304, 36-305; effective Jan. 1, 1966; revoked Jan. 1, 1968.)

**28-36-30. Fees.** (a) The food service establishment license fee shall be \$100.

(b) The food service establishment license application fee shall be \$100. (Authorized by K.S.A. 36-507; implementing K.S.A. 36-503; effective, E-79-16, July 1, 1978; effective May 1, 1979; amended, E-82-21, Nov. 16, 1981; amended May 1, 1982; amended Dec. 30, 1991; amended Sept. 27, 1993; amended Nov. 20, 1998.)



**28-36-10 to 28-36-18.** (Authorized by K.S.A. 1976 Supp. 36-507; effective, E-77-46, Sept. 30, 1976; effective Feb. 15, 1977; revoked Aug. 13, 1999.)

**28-36-20.** (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; revoked Aug. 13, 1999.)

**28-36-21.** (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended Aug. 23, 1993; revoked Aug. 13, 1999.)

**28-36-22 to 28-36-24.** (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; revoked Aug. 13, 1999.)

**28-36-25.** (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508, K.S.A. 1982 Supp. 36-503; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended, T-83-47, Dec. 8, 1982; modified, L. 1983 ch. 350, May 1, 1983; revoked Aug. 13, 1999.)

**28-36-26 to 28-36-28.** (Authorized by K.S.A. 1978 Supp. 36-507; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; revoked Aug. 13, 1999.)

**28-36-29.** (Authorized by K.S.A. 36-507; implementing K.S.A. 36-508, K.S.A. 1982 Supp. 36-515a; effective, E-79-29, Oct. 24, 1978; effective May 1, 1979; amended, T-83-47, Dec. 8, 1982; amended May 1, 1983; revoked Aug. 13, 1999.)

**28-36-101. Definitions.** Chapter one of the 1999 ``food code," published by the U.S. department of health and human services, is adopted by reference, subject to the following additions, deletions, and substitutions:

(a) ``Federal food, drug, and cosmetic act" shall be replaced by ``Kansas food, drug, and cosmetic act."

(b) ``FDA" means ``food and drug administration."

(c) The definition of ``food additive" in subpart 1-201.10(B)(2)(a) shall be deleted and shall be replaced by

the definition in K.S.A. 65-656(s), and amendments thereto.

(d) The definition of ``color additive" in subpart 1-201.10(B)(2)(b) shall be deleted and shall be replaced by the definition in K.S.A. 65-656(t), and amendments thereto.

(e) The definition of ``adulterated" in subpart 1-201.10(B)(3) shall be deleted and shall be replaced by the definition of ``food deemed adulterated" in K.S.A. 65-664, and amendments thereto.

(f) In subpart 1-201.10(B)(23), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(g) The definition of ``food" in subpart 1-201.10(B)(27) shall be deleted and shall be replaced by the definition in K.S.A. 36-501(f), and amendments thereto.

(h) (1) In subpart 1-201.10(B)(31)(b)(i), the word ``and" shall be deleted.

(2) In subpart 1-201.10(B)(31)(b)(ii), the period after ``FOOD" shall be deleted and shall be replaced by a semicolon.

(3) In subpart 1-201.10(B)(31)(b), the following paragraphs shall be added:

``(iii) A `food service establishment' as defined in K.S.A. 36-501(e), and amendments thereto;

(iv) A `vending machine' defined in K.S.A. 36-501(g), and amendments thereto; and

(v) A `retail food store' means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged non-potentially hazardous foods, roadside markets that offer only fresh fruits and fresh vegetables for sale, food

service establishments, or food and beverage vending machines."

(i) In subpart 1-201.10(B)(33)(a), ``bison," shall be added after the word ``horse," and in (33)(b) ``bison," shall be deleted after the word ``buffalo."

(j) In subpart 1-201.10(B)(51), the word ``Permit" shall be deleted and shall be replaced by ``License."

(k) In subpart 1-201.10(B)(52), the words ``Permit holder" shall be deleted and shall be replaced by ``Licensee."

(l) The definition of ``person" in subpart 1-201.10(B)(53) shall be deleted and shall be replaced by the definition in K.S.A. 36-501(j), and amendments thereto.

(m) The definition of ``person in charge" in subpart 1-201.10(B)(54) shall be deleted and shall be replaced by the following: ``means at the time of the inspection, any individual or employee present in a food establishment who is responsible for the operation. If no designated individual or employee is the person in charge, then any employee present is the person in charge."

(n) In subpart 1-201.10(B)(63)(a) and (b), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(o) The definition of ``public water supply" in subpart 1-201.10(B)(65) shall be deleted and shall be replaced by the definition of ``public water supply system" in K.S.A. 65-162a(b), and amendments thereto.

(p) The definition of ``refuse" in subpart 1-201.10(B)(68) shall be deleted and shall be replaced by the definition of ``solid waste" as defined in K.S.A. 65-3402, and amendments thereto.

(q) The definition of ``regulatory authority" in subpart 1-201.10(B)(69) shall be deleted and shall be replaced by the following: ``means the secretary of health and environment or the secretary's designated agent."

(r) The definition of ``sewage" in subpart 1-201.10(B)(76) shall be deleted and shall be replaced by the definition in K.S.A. 65-164(b), and amendments thereto.

(s) The definition of ``vending machine" in subpart 1-201.10(B)(91) shall be deleted and shall be replaced by the definition of ``food vending machine" in K.S.A. 36-501(g), and amendments thereto.

(t) In subpart 1-201.10(92), ``Food" shall be inserted before the word ``Vending." (Authorized by K.S.A. 36-507 and 65-673; implementing K.S.A. 36-503, 36-508, 36-515, and 36-515a; effective Aug. 13, 1999.)

**28-36-102. Management and personnel.** Chapter two of the 1999 ``food code," published by the U.S. department of health and human services, is adopted by reference, subject to the following additions and substitutions:

(a) In subpart 2-101.11, the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(b) In subpart 2-102.11, the words ``OR APPROVED" shall be inserted after ``ACCREDITED."

(c) In subpart 2-201.11, the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(d) In subpart 2-201.12(D)(1) and (D)(2), the number ``7" shall be replaced by ``14."

(e) In subpart 2-201.12(D)(2)(a), the words ``until 2 weeks after the onset of symptoms" shall be inserted before ``or." (Authorized by K.S.A. 36-507 and 65-673; implementing K.S.A. 36-503, 36-508, 36-515, and 36-515a; effective Aug. 13, 1999.)

**28-36-103. Food.** Chapter three of the 1999 ``food code," published by the U.S. department of health and human services, is adopted by reference, subject to the following deletions and substitutions:

(a) In subpart 3-201.11(E), the words ``without a CONSUMER advisory as specified in ¶ 3-401.11(C)" shall be

deleted.

(b) In subpart 3-305.13, ``FOOD" shall be inserted before the word ``VENDING."

(c) In subpart 3-306.12(B), ``FOOD" shall be inserted before the word ``VENDING."

(d) In subpart 3-204.11(D)(3)(a), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(e) In subpart 3-501.16(C)(2), the phrase ``5 years" shall be deleted and shall be replaced by ``10 years."

(f) In subpart 3-602.11(B)(5), the words ``Federal Food, Drug, and Cosmetic Act §§ 403 (Q)(3)-(5)" shall be deleted and shall be replaced by ``Kansas food, drug, and cosmetic act."

(g) Subpart 3-603.11 shall be deleted. (Authorized by K.S.A. 36-507 and 65-673; implementing K.S.A. 36-503, 36-508, 36-515, and 36-515a; effective Aug. 13, 1999.)

**28-36-104. Equipment, utensils, and linens.** Chapter four of the 1999 ``food code," published by the U.S. department of health and human services, is adopted by reference, subject to the following additions, deletions, and substitutions:

(a)(1) In subpart 4-204.14, ``Food" shall be inserted before the word ``Vending" in the title.

(2) In subpart 4-204.14, ``FOOD" shall be inserted before the word ``VENDING."

(b) In subpart 4-204.16, the words ``for human consumption" shall be added to the end of the first sentence.

(c)(1) In subpart 4-204.19, ``Food" shall be inserted before the ``Vending" in the title.

(2) In subpart 4-204.19, ``FOOD" shall be inserted before the word ``VENDING."

(d) In subpart 4-204.110(B)(1), the words ``as specified under §§ 8-103.11" shall be deleted and shall be replaced by ``by the regulatory authority."

(e)(1) In subpart 4-204.111, ``Food" shall be inserted before the word ``Vending" in the title.

(2) In subpart 4-204.111(B)(1) and (2), ``FOOD" shall be inserted before the word ``VENDING."

(f)(1) In subpart 4-204.121, ``Food" shall be inserted before the word ``Vending" in the title.

(2) In subpart 4-204.121(A) and (B), ``FOOD" shall be inserted before the word ``VENDING."

(g)(1) In subpart 4-204.123, ``Food" shall be inserted before the ``Vending" in the title.

(2) In subpart 4-204.123(A) and (B), ``FOOD" shall be inserted before the word ``VENDING."

(h) Subparts 4-301.12(C)(5), (C)(6), (D), and (E) shall be deleted.

(i) In subpart 4-401.11(B), the words `` that are in unwrapped packages" shall be added after the word ``ARTICLES."

(j) In subpart 4-501.114(D), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(k)(1) In subpart 4-603.16(A)(1), the word ``or" shall be added at the end of the paragraph.

(2) Subpart 4-603.16(A)(2) shall be deleted, and the designation for paragraph ``(A)(3)" shall be replaced by ``(A)(2)."

(3) In subpart 4-603.16, paragraph (B)(1) shall be deleted, and the designation for paragraph ``(B)(2)" shall be deleted.

(4) Subpart 4-603.16(C) shall be deleted.

(5) In subpart 4-603.16, the designation of `` (D) " shall be replaced by `` (C) ."

(6) In subpart 4-603.16, the designation of `` (E) " shall be replaced by `` (D) ."

(1)(1) In subpart 4-703.11(C)(1), the number `` 10 " shall be replaced by `` 60 ."

(2) In subpart 4-703.11(C)(2), the number `` 7 " shall be replaced by `` 60 . " (Authorized by K.S.A. 36-507 and 65-673; implementing K.S.A 36-503, 36-508, 36-515, and 36-515a; effective Aug. 13, 1999.)

**28-36-105. Water, plumbing, and waste.** Chapter five of the 1999 `` food code, " published by the U.S. department of health and human services, is adopted by reference, subject to the following additions, deletions, and substitutions:

(a)(1) In subpart 5-101.11(A), `` SUPPLY " shall be inserted before the `` SYSTEM ."

(2) In subpart 5-101.11(B), the words `` according to LAW " shall be deleted and shall be replaced with `` according to K.S.A. 65-161 et seq., and amendments thereto ."

(b) In subpart 5-102.11(B), `` SUPPLY " shall be inserted before the word `` SYSTEM ."

(c) In subpart 5-102.13, `` SUPPLY " shall be inserted before the word `` SYSTEM ."

(d) In subpart 5-102.14, `` SUPPLY " shall be inserted before the word `` SYSTEM ."

(e) In subpart 5-103.12, the symbol `` \* " shall be added after the subtitle `` Pressure ."

(f) In subpart 5-104.11(B), the words `` according to LAW " shall be deleted and shall be replaced by `` according to K.S.A. 65-161 et seq., and amendments thereto ."

(g) In subparts 5-201.11(A) and 5-202.11(A), the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 65-161 et seq., and amendments thereto."

(h)(i) In subpart 5-203.11(A), the phrase ``and (C)" shall be deleted.

(2) Subpart 5-203.11(C) shall be deleted.

(i)(1) In subpart 5-203.12, the words ``and Urinals" in the subtitle shall be deleted.

(2) In subpart 5-203.12, the two sentences shall be deleted and shall be replaced by the following: ``Toilet facilities shall be installed according to applicable state and local requirements or as approved by the regulatory authority. Toilet facilities shall be conveniently located and shall be accessible to employees and patrons at all times, except that food service establishments that have no seating arrangements shall not be required to provide patron access to toilet facilities. Separate toilet facilities shall be provided for each sex in all new, newly constructed, or extensively remodeled facilities that offer food consumption arrangement for 20 or more persons on the premises."

(j) In subparts 5-402.13, 5-403.11(B), and 5-403.12, the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 65-161 et seq., and amendments thereto."

(k)(1) In subpart 5-501.14, ``Food" shall be inserted before the word ``Vending" in the title.

(2) In subpart 5-501.14, ``FOOD" shall be inserted before the word ``VENDING."

(l) In subpart 5-502.12(A) and (B), the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 65-161 et seq., and amendments thereto."

(m) In subpart 5-503.11, the words ``according to LAW" shall be deleted and shall be replaced by ``accord-



ing to K.S.A. 65-161 et seq., and amendments thereto."  
(Authorized by K.S.A. 36-507 and 65-673; implementing  
K.S.A. 36-503, 36-508, 36-515, and 36-515a; effective Aug.  
13, 1999.)

**28-36-106. Physical facilities.** Chapter six of the  
1999 ``food code," published by the U.S. department of  
health and human services, is adopted by reference.

(a) In subpart 6-302.10, the words ``and urinals" shall  
be deleted.

(b) In subpart 6-404.11, the words ``PERMIT HOLDER"  
shall be deleted and shall be replaced by ``LICENSEE."  
(Authorized by K.S.A. 36-507 and 65-673; implementing  
K.S.A. 36-503, 36-508, 36-515, and 36-515a; effective Aug.  
13, 1999.)

**28-36-107. Poisonous or toxic materials.** Chapter  
seven of the 1999 ``food code," published by the U.S. de-  
partment of health and human services, is adopted by  
reference. (Authorized by K.S.A. 36-507 and 65-673; im-  
plementing K.S.A. 36-503, 36-508, 36-515, and 36-515a; ef-  
fective Aug. 13, 1999.)

**28-36-108. Compliance and enforcement.** Chapter  
eight of the 1999 ``food code," published by the U.S. de-  
partment of health and human services, is adopted by  
reference, subject to the following additions, deletions,  
and substitutions;

(a) In subpart 8-102.10(B), the words ``PERMIT  
HOLDER" shall be deleted and shall be replaced by ``LI-  
CENSEE."

(b) In subpart 8-103.12, the words ``PERMIT  
HOLDER" shall be deleted and shall be replaced by ``LI-  
CENSEE."

(c)(1) In the first sentence of subpart 8-201.11, the word  
``PERMIT" shall be deleted and replaced by ``LICENSE,"  
and the phrase ``PERMIT HOLDER" shall be deleted and  
replaced by ``LICENSEE."

(2) In subpart 8-201.11(B), the word ``or" shall be de-

leted.

(3) In subpart 8-201.11(C), the words ``as specified under ¶¶ 8-301.14(C)" shall be deleted, and ``; or" shall replace the period after ``Code."

(4) In subpart 8-201.11, the following new paragraph shall be added after paragraph (C): ``(D) Approval of plans by the regulatory authority shall not negate the liability of the applicant to comply with the requirements of these regulations."

(d)(1) In subpart 8-201.13(A), the word ``PERMIT" shall be replaced by ``LICENSE."

(2) In subpart 8-201.13(A), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(3) In subpart 8-201.13(A)(1), the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 36-501 et seq., and amendments thereto."

(4) In subpart 8-201.13(B), the word ``PERMIT" shall be deleted and shall be replaced by ``LICENSE," and the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(e) Subparts 8-203.10, 8-301.11, 8-302.11, 8-302.12, 8-302.13, 8-302.14, 8-303.20, 8-303.30, 8-304.10, 8-304.20, and 8-401.10 shall be deleted.

(f)(1) In subpart 8-304.11, the words ``Permit Holder" shall be deleted and shall be replaced by ``Licensee" in the title.

(2) In subpart 9-304.11, the word ``PERMIT" shall be deleted and shall be replaced by ``LICENSE."

(3) In subpart 8-304.11, the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(4) In subpart 8-304.11(A), the word ``PERMIT" shall be deleted and shall be replaced by ``LICENSE."

(5) In subpart 8-304.11(F), ``as specified under ¶¶ 8-402.11" shall be deleted.

(6) In subpart 8-304.11(H), the phrase ``5 years" shall be replaced by ``10 years."

(7) In subpart 8-304.11(I), the words ``PERMIT HOLDER'S" shall be deleted and shall be replaced by ``LICENSEE'S."

(8) In subpart 8-304.11(J), the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 36-501 et seq., and amendments thereto."

(g) In subpart 8-401.20, the words ``Within the parameters specified in §§ 8-401.10" shall be deleted.

(h) Subparts 8-402.11, 8-402.20, 8-402.30, 8-402.40, and 8-403.10 shall be deleted.

(i)(1) In subpart 8-403.30, the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 36-501 et seq., and amendments thereto."

(2) In subpart 8-403.30, the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(j) In subpart 8-403.40(A)(2), the words ``PERMIT HOLDER'S" shall be deleted and shall be replaced by ``LICENSEE'S."

(k) Subpart 8-403.50 shall be deleted.

(l) In subpart 8-404.11(A) and (B), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(m) Subpart 8-404.12 shall be deleted.

(n)(1) In subpart 8-405.11(A) and (B), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(2) In subpart 8-405.11(B), the word ``calendar" shall be deleted.

(o) In subpart 8-405.20(B), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(p) In subpart 8-406.11(A) and (B), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(q) Subpart 8.501.10 shall be deleted.

(r)(1) In subpart 8-501.20, the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(2) In subpart 8-501.20, paragraph (C) shall be deleted and shall be replaced by the following: `` (C) Immediate closing of the food establishment, until the regulatory authority determines that no further danger of disease transmission exists."

(s)(1) In subpart 8-501.30, in the first sentence the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(2) In subpart 8-501.30(B) and (C), the words ``PERMIT HOLDER" shall be deleted and shall be replaced by ``LICENSEE."

(t) In subpart 8-501.40, the words ``according to LAW" shall be deleted and shall be replaced by ``according to K.S.A. 36-501 et seq., and amendments thereto." (Authorized by K.S.A. 36-507 and 65-673; implementing K.S.A. 36-503, 36-508, 36-515, and 36-515a; effective Aug. 13, 1999.)